

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

-----	X	
	:	Chapter 9
In re	:	
	:	Case No. 13-53846
CITY OF DETROIT, MICHIGAN,	:	
	:	Hon. Steven W. Rhodes
Debtor	:	
-----	X	

**MOTION OF ENFORCEMENT TECHNOLOGY, INC.
FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE CLAIM**

Enforcement Technology, Inc. ("Enforcement Technology"), by its attorneys, hereby moves the Court (the "Motion"), pursuant to 11 U.S.C. §§ 503(b)(1)(A) and 507(a)(2), for entry of an order allowing its administrative claim in the amount of \$81,950.73 for the value of goods and services rendered to the City of Detroit, Michigan (the "City") post-petition. In support of this Motion, Enforcement Technology respectfully states as follows:

Background

1. Enforcement Technology provides parking enforcement equipment and services to the City pursuant to an AutoCITE, AutoISSUE and AutoPROCESS Annual Maintenance Agreement originally dated July 30, 2008 between the City and Enforcement Technology, as well as various related purchase orders (collectively, the "Contract").

2. Although the Contract was not listed on the Non-Exclusive Plan Assumption List [Docket No. 8387], Article II.D.1 the City's confirmed Eighth Amended Plan for the Adjustment of Debts of the City (the "Plan") provides for the assumption of the Contract as of the Effective Date of the Plan, i.e., December 10, 2014. *See* Plan, Article II.D.1.

3. On December 29, 2014, Enforcement Technology filed its Objection by Enforcement Technology to Cure Amount (the "Cure Objection") [Docket No. 8959], asserting a cure amount due of \$76,667.22.¹ As indicated in the Cure Objection, the amounts comprising the cure amount also constitute administrative claims. Since the date of the Cure Objection, the City has incurred an additional \$5,283.51, which was invoiced to the City on December 30, 2014. This brings the total amount owed by the City to Enforcement Technology as of the date of this Motion to \$81,950.73 (the "Enforcement Technology Administrative Claim"). A chart summarizing the unpaid invoices comprising the Enforcement Technology Administrative Claim is attached hereto as Exhibit 6.

4. The City's Plan provides that all requests for payment of Administrative Claims (as defined in the Plan) must be filed and served on the City no later than 45 days after the Effective Date of the Plan. *See* Plan, Article II.A.2.a. Although Enforcement Technology is not required to file this Motion to assert its Administrative Claim because the liabilities owed to it were incurred by the City in the "ordinary course" of the City's operations,² Enforcement Technology files this Motion out of an abundance of caution because several of the City's unpaid invoices have remained unpaid for more than six months.

5. Because the Effective Date occurred on December 10, 2014, requests for payment of Administrative Claims are due on January 24, 2015.

¹ Enforcement Technology and the City have agreed to an extension of time for the City to respond to the Cure Objection. The City's deadline to respond to the Cure Objection is February 6, 2015.

² *See* Article II.A.2.b. of the Plan.

Legal Argument

6. Section 503(b)(1)(A) of the Bankruptcy Code provides that "the actual, necessary costs and expenses of preserving the estate" shall be allowed administrative expenses, which are entitled to administrative priority pursuant to Section 507(a)(2) of the Bankruptcy Code. 11 U.S.C. § 503(b)(1)(A); 11 U.S.C. § 507(a)(2).

7. Courts in the Sixth Circuit utilize a two-part test to determine whether a claim qualifies as an administrative expense claim under Section 503(b)(1)(A) of the Bankruptcy Code. *Caradon Doors and Windows, Inc. v. Eagle Picher Ind., Inc. (In re Eagle-Picher Ind., Inc.)*, 447 F.3d 461, 464 (6th Cir. 2006). Under the Sixth Circuit test, a debt qualifies as an "actual, necessary" administrative expense if it "(1) arose from a transaction with the bankruptcy estate; and (2) directly and substantially benefited the estate." *Id.* (quoting *Pension Benefit Guar. Corp. v. Sunarhauserman, Inc. (In re Sunarhauserman, Inc.)*, 126 F.3d 811, 816 (6th Cir. 1997)).

8. Both of the elements of the Sixth Circuit test are met here. The invoices comprising the Enforcement Technology Administrative Claim are for goods and services rendered to the City and its estate in post-petition transactions, and the goods and services permitted the City and its estate to collect parking enforcement revenues throughout the pendency of its bankruptcy case.

9. Because the amounts due to Enforcement Technology on account of the Enforcement Technology Administrative Claim meet all of the requirements for allowance as an administrative expense, the Enforcement Technology Administrative Claim should be allowed in the amount of \$81,950.73 and paid in accordance with Article II.A.1.a of the Plan (i.e., paid within 30 days after an order is entered allowing the Enforcement Technology Administrative Claim).

WHEREFORE, Enforcement Technology seeks an order: (a) allowing the Enforcement Technology Administrative Claim in the amount of \$81,950.73 and (b) requiring payment of the Enforcement Technology Administrative Claim within 30 days after the entry of the order.

Dated: January 23, 2015.

HONIGMAN MILLER SCHWARTZ AND COHN LLP
Attorneys for Enforcement Technology, Inc.

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- and -

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EXHIBIT 1
THE PROPOSED ORDER

**IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

-----	X	
	:	Chapter 9
In re	:	
	:	Case No. 13-53846
CITY OF DETROIT, MICHIGAN,	:	
	:	Hon. Steven W. Rhodes
Debtor	:	
-----	X	

**ORDER ALLOWING ENFORCEMENT
TECHNOLOGY, INC. ADMINISTRATIVE CLAIM**

This matter having come on to be considered upon the Motion of Enforcement Technology, Inc. For Allowance and Payment of Administrative Claim (the “**Motion**”) by Enforcement Technology, Inc. (“**Enforcement Technology**”), the Court having considered the Motion and the arguments and evidence in support of the Motion and any response, argument or evidence in opposition to the Motion, notice having been given, no further notice or hearing being necessary, capitalized terms not defined in this Order having the meaning as defined in the Motion and the Court being fully advised in the premises;

THE COURT HEREBY FINDS that

- A. The Contract was assumed by Debtor City of Detroit (the “**City**”).
- B. The total amount owed by the City to Enforcement Technology under the Contract as of December 31, 2014 is \$81,950.73.

THE COURT HEREBY ORDERS THAT

- 1. The City owes Enforcement Technology \$81,950.73 under the Contract on an administrative expense basis.

2. The City is directed to pay the \$81,950.73 to Enforcement Technology within 30 days of entry of this Order.

EXHIBIT 2
THE NOTICE OF OPPORTUNITY TO RESPOND

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

----- X
In re : Chapter 9
: :
CITY OF DETROIT, MICHIGAN, : Case No. 13-53846
: :
Debtor : Hon. Steven W. Rhodes
: :
----- X

**NOTICE OF OPPORTUNITY TO RESPOND TO MOTION FOR LEAVE
TO FILE SUPPLEMENTAL MEMORANDUM IN SUPPORT OF MOTION FOR
ENTRY OF JUDGMENT AGAINST ADELL BROADCASTING CORP. AND STN.COM**

Enforcement Technology, Inc. has filed the Motion of Enforcement Technology, Inc. for Allowance and Payment of Administrative Claim.

Your rights may be affected. You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)

If you do not want the Court to grant the relief sought in the motion, or if you want the court to consider your view on the motion, within 14 days, you or your attorney must:

1. File with the **court** a written response or an answer, explaining your position at

United States Bankruptcy Court
211 W. Fort Street, Suite 2100
Detroit, Michigan 48226

If you mail your response to the court for filing, you must mail it early enough so the court will **receive** it on or before the date stated above. You must also mail a copy to:

Judy B. Calton
Honigman Miller Schwartz and Cohn LLP
2290 First National Building
660 Woodward Ave.
Detroit, Michigan 48226

2. If a response or answer is timely filed and served, the clerk will schedule a hearing on the motion and you will be served with a notice of the date, time and location of the hearing.

If you or your attorney do not take these steps, the court may decide that you do not oppose the relief sought in the Motion and may enter an order granting that relief.

HONIGMAN MILLER SCHWARTZ AND COHN LLP
Attorneys for Enforcement Technology, Inc.

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kmason@reinhardtllaw.com

Dated: January 23, 2015

EXHIBIT 3
THE BRIEF IN SUPPORT

**IN THE UNITED STATES BANKRUPTCY COURT
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-----	X	

**BRIEF IN SUPPORT OF MOTION OF ENFORCEMENT TECHNOLOGY,
INC. FOR ALLOWANCE AND PAYMENT OF ADMINISTRATIVE CLAIM**

Enforcement Technology, Inc. for its brief relies on the authorities cited in the Motion of Enforcement Technology, Inc. For Allowance and Payment of Administrative Claim.

HONIGMAN MILLER SCHWARTZ AND COHN LLP
Attorneys for Enforcement Technology, Inc.

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Dated: January 23, 2015

EXHIBIT 4
THE PROOF OF SERVICE

IN THE UNITED STATES BANKRUPTCY COURT
EASTERN DISTRICT OF MICHIGAN
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-----	X	

PROOF OF SERVICE

The undersigned hereby certifies and declares that she caused the **Motion of Enforcement Technology, Inc. For Allowance and Payment of Administrative Claim** to be electronically filed with the Clerk of the Court using the ECF System and that all participants in the case will be served via the ECF System.

Also served by U.S. Mail upon:

Melvin Hollowell, Esq.
City of Detroit Law Department
Two Woodward Avenue
Suite 500
Detroit, MI 48226

Marc Swanson, Esq.
Miller Canfield
150 W. Jefferson
Suite 2500
Detroit, MI 48226

I certify and declare under penalty of perjury that the foregoing is true and correct.

HONIGMAN MILLER SCHWARTZ AND COHN LLP
Attorneys for Enforcement Technology, Inc.

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Dated: January 23, 2015

EXHIBIT 5
NOT APPLICABLE

EXHIBIT 6
DOCUMENTARY EXHIBITS

EXHIBIT 6: SUMMARY OF CURE AMOUNT

Detroit Invoice Nos.	Invoice Date	Balance Due	Product/Service
1756000	4/8/2014	\$ 1,936.82	Coin Tracks
	12/11/2014	\$ (616.78)	
		\$ 1,320.04	
1757800	4/9/2014	\$ 1,829.88	Misc Spare Parts (Jaw Expander)
1755200	4/18/2014	\$ 8.17	Freight
1783202	4/30/2014	\$ 1,615.00	ReinoNET April 2014
1792100	5/22/2014	\$ 3,808.88	Reino Greencells & C Batteries
1815700	5/31/2014	\$ 1,958.51	Maintenance Agrmnt May 2014
1815801	5/31/2014	\$ 1,710.00	ReinoNET May 2014
1815802	5/31/2014	\$ 1,615.00	ReinoNET May 2014
1844500	6/23/2014	\$ 1,958.51	Maintenance Agrmnt June 2014
1844601	6/23/2014	\$ 1,710.00	ReinoNET June 2014
1844602	6/23/2014	\$ 1,615.00	ReinoNET June 2014
1885600	7/22/2014	\$ 14,764.03	Reino Greencell & C Cell Batteries
1895301	7/30/2014	\$ 1,710.00	ReinoNET July 2014
1895302	7/30/2014	\$ 1,615.00	ReinoNET July 2014
1895400	7/30/2014	\$ 1,958.51	Maintenance Agrmnt July 2014
1980800	7/31/2014	\$ 16,336.65	Hybrid Card Reader/Cash Flow Valdtr.
1932600	8/29/2014	\$ 1,958.51	Maintenance Agrmnt August 2014
1932501	8/29/2014	\$ 1,710.00	ReinoNET August 2014
1932502	8/29/2014	\$ 1,615.00	ReinoNET August 2014

1968400	9/30/2014	\$ 1,958.51	Maintenance Agrmnt September 2014
1968301	9/30/2014	\$ 1,710.00	ReinoNET September 2014
1968302	9/30/2014	\$ 1,615.00	ReinoNET September 2014
2003700	10/31/2014	\$ 1,958.51	Maintenance Agrmnt October 2014
2003801	10/31/2014	\$ 1,710.00	ReinoNET October 2014
2003802	10/31/2014	\$ 1,615.00	ReinoNET October 2014
2040000	11/30/2014	\$ 1,958.51	Maintenance Agrmnt November 2014
2039901	11/30/2014	\$ 1,710.00	ReinoNET November 2014
2039902	11/30/2014	\$ 1,615.00	ReinoNET November 2014
2073300	12/31/2014	\$ 1,958.51	Maintenance Agrmnt December 2014
2073401	12/31/2014	\$ 1,710.00	ReinoNET December 2014
2073402	12/31/2014	\$ 1,615.00	ReinoNET December 2014
TOTAL:		\$ 81,950.73	